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Attorneys for *Specially Appearing* Defendant HARRAH'S ENTERTAINMENT, INC.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

JAMES M. KINDER,

Plaintiff,

vs.

HARRAH'S ENTERTAINMENT, INC. and DOES 1 through 100, inclusive,

Defendants.

CASE NO. 07 CV 2226 DMS (POR)

Judge: Hon. Dana M. Sabraw
Mag. Judge: Hon. Louisa S. Porter

DECLARATION OF RONALD R. GIUSSO IN SUPPORT OF *SPECIALLY APPEARING* DEFENDANT'S *EX PARTE* APPLICATION FOR ORDER STRIKING THE NEWLY SUBMITTED MATTERS PRESENTED IN KINDER'S REPLY IN SUPPORT OF MOTION TO FILE AN AMENDED COMPLAINT OR, IN THE ALTERNATIVE, FOR A CONTINUANCE OF 14 DAYS TO ALLOW *SPECIALLY APPEARING* DEFENDANT TO FILE A SUR-REPLY AND RELATED PLEADINGS

ACCOMPANYING PLEADINGS:
EX PARTE APPLICATION;
MEMORANDUM OF POINTS & AUTHORITIES; [PROPOSED] ORDER

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I, Ronald R. Giusso, declare:

1. I am an attorney at law licensed to practice before all courts of the State of California, and I am employed by the law firm of Shea Stokes Roberts & Wagner, ALC, counsel of record for *Specially Appearing* Defendant HARRAH'S ENTERTAINMENT, INC.

2. I have personal knowledge of each of the facts set forth in this declaration and could and would competently testify thereto.

3. On January 17, 2008, my office was served with KINDER's reply brief in support of his motion for leave to file a first amended complaint to add new defendants. Filed with that reply brief are nine (9) exhibits and a proposed complaint, all of which were not included in plaintiff's moving papers. Plaintiff's argument also contains new legal arguments based on newly submitted evidence that were not included in Plaintiff's moving papers. In addition the declaration of Chad Austin contains new facts related to Attorney Austin's purported investigation of several corporate entities, which are factually inaccurate, lacks foundation and which are not completed until January 17, 2008 – thus precluding *Specially Appearing* Defendant from commenting on such evidence in its opposition.

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4. On January 21, 2008, I provided KINDER notice of *Specially Appearing* Defendant's intent to seek *ex parte* relief for an Order striking the improperly and untimely exhibits, proposed complaint and new arguments submitted in support of his Reply Brief on Motion to Amend, or in the alternative for leave to file a sur-reply and related pleadings to respond to the evidence, argument and proposed amended complaint submitted by Plaintiff in support of his Reply Brief and for a continuance to accomplish that alternative relief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 21st day of January, 2008 at San Diego, California.

/s/ Ronald R. Giusso
Ronald R. Giusso